

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

**OCT 14 2021**

Clerk, U.S. District and  
Bankruptcy Courts

UNITED STATES OF AMERICA	:	Case No: 21-cr-125 (BAH)
	:	
	:	
	:	18 U.S.C. §§ 1752(a)(1)
	:	
v.	:	
	:	
BRIAN MCCREARY	:	
	:	
Defendant.	:	
	:	

**STATEMENT OF OFFENSE**

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Brian McCreary, with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

***The Attack at the U.S. Capitol on January 6, 2021***

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol.

2. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public.

3. On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

4. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

5. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

6. At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol;

however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the U.S. Capitol, requiring the expenditure of more than \$1.4 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 p.m., members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

*Brian McCreary's Participation in the January 6, 2021, Capitol Riot*

8. The defendant, Brian McCreary, unlawfully entered the U.S. Capitol on January 6, 2021. The defendant traveled from his home in Massachusetts to Washington D.C. to participate in the “Stop the Steal” rally against the results of the 2020 Presidential Election. After attending the rally, the defendant marched to the U.S. Capitol and made entrance into the building at approximately 1415 hours through an exterior door that had been kicked open from the inside after rioters broke the exterior windows and climbed in the building.

9. While inside the building the defendant was with the mob of rioters that ascended the stairs to the second floor to the Senate side of the U.S. Capitol building, where the group was confronted by law enforcement who instructed them to peacefully exit the building.

10. A short time later, while still inside the building, the defendant was stopped by law enforcement and asked if he was a member of the press. When the defendant stated he was not, he was asked to present identification and ordered to leave the building. The defendant then exited the building, however a brief time later he again re-entered the building through a separate door that had also been kicked open. The defendant exited the building for the second time after hearing a gunshot.

11. On January 7, 2021, the defendant contacted the FBI through the tip line and provided video footage he had taken from both inside and outside the United States Capitol on January 6<sup>th</sup>. On January 26, 2021 the defendant was interviewed by the FBI, wherein he stated that he drove to Washington D.C. to attend the rally because he was frustrated with the results of the 2020 Presidential Election and the fact that an audit was not performed to address allegations of mass voter fraud.

12. The defendant knew at the time he entered the U.S. Capitol Building that he did not have authority to do so and that the building was restricted.

Respectfully submitted,


CHANNING D. PHILLIPS  
Acting United States Attorney  
D.C. Bar No. 415793

By: /s/ Brandon K. Regan  
Brandon K. Regan  
Assistant United States Attorney

DEFENDANT'S ACKNOWLEDGMENT

I, Brian McCreary, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

Date: Aug 24 2021

  
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Brian McCreary  
Defendant

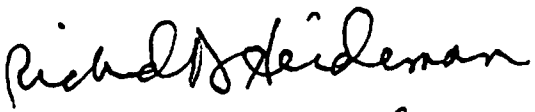
ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 8/24/21

  
\_\_\_\_\_  
Jeffrey Denner, Esq.  
Attorney for Defendant

I concur:

  
\_\_\_\_\_  
Attorney for Defendant